IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.18643 OF 2006

Between:

M/s.Sagar Creations, rep. By its
Proprietor Smt.Damayanti.

..... PETITIONER

AND

Commercial Tax Officer,
Suryaraopet Circle,
Vijayawada, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.18643 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner is a proprietary concern carrying on business in ready-made garments and is a registered dealer on the rolls of the first respondent under the AP VAT Act. The petitioner asserts in the affidavit filed in support of the petition that it purchased certain ready-made garments from M/s.Mahaveer Readymades, Bellary, Karnataka State. The said material was transported through the Indian Railways under Receipt No.783132, dated 29.01.2006 from Bellary to Vijayawada, where the business of the petitioner is carried on. Without going into the factual details of the case, it suffices to state that the said material was seized by the first respondent and still the same is in the custody of the third respondent. On coming to know of the seizure of the material, the petitioner submitted an elaborate representation dated 13.02.2006 pointing out the infirmity in the seizure. Subsequently, the first respondent passed an order of confiscation under Section 45(7)(b) of the A.P.VAT Act by proceedings dated 27.07.2006. Hence, the present writ petition with a prayer as follows:

> **"... Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or Order or Direction declaring the action of the 1st Respondent in passing the Confiscation Order dated 27.07.2006 as arbitrary, contrary to law without jurisdiction and also in violation of principles of natural justice and**

consequently direct the 1st Respondent to release the 3 bundles of the ready made garments of the Petitioner forthwith, which was seized and confiscated by the 1st Respondent and consequently set aside the Confiscation Proceedings of the 1st Respondent dated 27-07-2006 and pass ...''

Heard the learned Government Pleader.

We have examined the objections raised by the petitioner and perused the confiscation order, and are of the opinion that none of the objections raised by the petitioner was considered before a drastic decision of confiscating the material was taken by the first respondent.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by setting aside the order dated 27.07.2006 passed by the first respondent confiscating the material belonging to the petitioner, and remitting the matter to the first respondent for an appropriate consideration of the objections of the petitioner and take a decision in accordance with law, which shall be done within a period of two weeks from today, after affording an opportunity of hearing to the petitioner. The petitioner shall appear before the

1st respondent on 12.12.2006 without waiting for any further notice from the firsr respondent. On such appearance, the first respondent shall hear the petitioner and dispose of the matter, as directed above.

The writ petition is accordingly allowed. No costs.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

1st DECEMBER, 2006

Note: Issue copy in one week
(B/O)PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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1ST DECEMBER, 2006